

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 INGE T. ANDERSON,

9 Plaintiff,

10 v.

11 SCOTT ALAN ANDERSON,

12 Defendant.

NO. C17-0891RSL

ORDER DENYING INJUNCTIVE  
RELIEF AND NOTING OTHER ISSUES  
ON THE COURT'S CALENDAR

13 This matter comes before the Court on "Plaintiff's Emergency Motion for Preliminary  
14 Injunction and Temporary Restraining Order." Dkt. # 112. The emergency relief plaintiff seeks  
15 is an order enjoining the Attorney General of Washington from producing records in response to  
16 a request for public records. Plaintiff argues that defendant's request for human resource and  
17 payroll records related to plaintiff's employment and/or internship with the Office of the  
18 Attorney General (a) is an improper attempt to evade the discovery deadline in this litigation  
19 and/or (b) seeks private information for improper purposes.  
20

21 "The public records portion of the public disclosure act, RCW 42.17.250-348  
22 (hereinafter, the Public Records Act or the Act), requires all state and local agencies to disclose  
23 any public record upon request, unless the record falls within certain very specific exemptions."  
24 Progressive Animal Welfare Soc'y v. Univ. of Wash., 125 Wn.2d 243, 250 (1994). Because the  
25  
26

27 ORDER DENYING INJUNCTIVE  
28 RELIEF AND NOTING OTHER ISSUES  
ON THE COURT'S CALENDAR - 1

1 purpose of the Act is “nothing less than the preservation of the most central tenets of  
2 representative government, namely, the sovereignty of the people and the accountability to the  
3 people of public officials and institutions,” its disclosure provisions are liberally construed and  
4 its exemptions are narrowly applied. Id. at 251; RCW 42.56.030. The federal rules of discovery,  
5 on the other hand, establish the rules of engagement between parties in private litigation in an  
6 effort to avoid trials by ambush and the unfairness that generally attends them. The two avenues  
7 for obtaining documents serve different purposes and are completely independent of each other:  
8 one is not a substitute for the other, nor are they mutually exclusive.<sup>1</sup> As the Washington  
9 Supreme Court recognized, there is no litigation-related exemption from the Public Records Act  
10 disclosure requirements, and a litigant may seek records under the pretrial rules of discovery  
11 without waiving his or her right to seek those records under the Act as well. O’Connor v. Wash.  
12 State Dept. of Soc. and Health Servs., 143 Wn.2d 895, 907 (2001). To the extent plaintiff seeks  
13 to enjoin the Attorney General’s production of records because such production would violate  
14 the Federal Rules of Civil Procedure or this Court’s case management order, the request is  
15 denied.

16  
17  
18  
19 To the extent plaintiff is seeking to enjoin production under RCW 42.56.540, the Court  
20 lacks jurisdiction over the dispute.

21 The examination of any specific public record may be enjoined if, upon motion  
22

---

23 <sup>1</sup> That is not to say that defendant can use a public records request to make up for a failure to  
24 participate in discovery. If defendant were to offer at trial documents produced by the Attorney General  
25 at this late date, plaintiff may object on the ground that they were not timely disclosed under the Federal  
26 Rules of Civil Procedure and/or the case management order. Plaintiff should be aware, however, that  
discovery generally encompasses matters that are relevant to any party’s claims or defenses: it does not  
necessarily demand pretrial production of that which would be used solely for impeachment purposes.

1 and affidavit by an agency or its representative or a person who is named in the  
2 record or to whom the record specifically pertains, the superior court for the  
3 county in which the movant resides or in which the record is maintained, finds that  
4 such examination would clearly not be in the public interest and would  
5 substantially and irreparably damage any person, or would substantially and  
6 irreparably damage vital governmental functions. An agency has the option of  
7 notifying persons named in the record or to whom a record specifically pertains,  
8 that release of a record has been requested. However, this option does not exist  
9 where the agency is required by law to provide such notice.


10 RCW 42.56.540. The statute specifies the state superior courts as the venue in which an  
11 interested person may seek judicial intervention to prevent disclosure. Although there may be  
12 instances in which an objection to production could be heard in federal court, plaintiff offers no  
13 facts or argument that would suggest this particular dispute triggers the Court's diversity  
14 jurisdiction or turns on an issue of federal law. Because the litigation pending before the Court  
15 has no bearing on the outcome of plaintiff's objections to production, because the Attorney  
16 General is not before the Court, and because the Court lacks jurisdiction over this separate  
17 dispute between the parties, plaintiff's request for an injunction is denied. If plaintiff intends to  
18 seek an injunction against the Attorney General, she must do so in the "superior court for the  
19 county in which [she] resides or in which the record is maintained." RCW 42.56.540.

20 In addition to her request for emergency injunctive relief under the Public Records Act,  
21 plaintiff seeks a protective order based on alleged stalking conduct by defendant under RCW  
22 7.92.100(1)(a) and the entry of judgment in her favor as a sanction for defendant's failure to  
23 comply with discovery orders and pretrial procedures. These issues are hereby renoted on the  
24 Court's calendar for consideration on Friday, June 21, 2019. Defendant shall file his opposition  
25  
26

27 ORDER DENYING INJUNCTIVE  
28 RELIEF AND NOTING OTHER ISSUES  
ON THE COURT'S CALENDAR - 3

1 to these two requests for relief, if any, no later than noon on Wednesday, June 19, 2019. Plaintiff  
2 shall file her reply, if any, no later than midnight on the note date.  
3

4  
5 Dated this 12th day of June, 2019.

6 

7 Robert S. Lasnik  
8 United States District Judge  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26